

State of Vermont Agency of Human Services Department of Corrections	Title: Offender Financial Obligations- Field	Page 1 of 7
Chapter Restorative Justice	# 426.01	Supersedes #502.04 <i>Restitution</i> , dated 11/10/1993
Attachments, Forms & Companion Documents: 1. Payment Contract		
Local Procedure(s) Required: No		
Applicability: All staff (including volunteers and contractors)		
<p style="text-align: center;">POSTED FOR COMMENT April 29 – May 20, 2008 Click here to submit feedback</p>		

PURPOSE

The purpose of this administrative directive is to establish uniform procedures within the Department of Corrections for requiring and supporting offenders placed under the supervision of the Department to pay court-ordered fines/fees, restitution, Department supervision fees, and program fees.

POLICY

It is the policy of the Department of Corrections that offenders placed under the supervision of the Department will fulfill their financial responsibilities resulting from being convicted of an offense(s). The offender will be required to pay their court-ordered fines/fees, restitution, supervision fees, and any program fees required by the program and as part of their case plan. They will also be expected to pay any family support and/or civil debts.

AUTHORITY

28 V.S.A. §102, (c)(14); 28 V.S.A.; 13 V.S.A.; 32 V.S.A. §5934; APA Rule # 08016 *Supervision Fees for Offenders Under Field Supervision by the Department of Corrections, May 2008*.

REFERENCE

Department Administrative Directive #371.05 *Offender Responsibility Plan* and Policy/Rule #06-037, #346 *Graduated Sanctions for Probation Violations*; Standards for Adult Probation and Parole Field Services, 3rd edition, August 1998, 3-3043, 3-3142, and 3-3209.

DEFINITIONS

Community Restitution Program: A Department intermediate sanction program in which an offender performs community work service on a Community Service Team or agency-supervised team for up to 60 days. The program is designed to be an alternative to a short incarcerative sentence.

Furlough: An extension of the limits of confinement of an inmate to locations outside a correctional facility.

Intake: An initial meeting where an offender shares identifying information, criminal history, risk issues, and other necessary information with the Probation Officer.

Payment Contract: The Department form which is completed by staff to assess an offender's ability to pay a supervision fee. Ability to pay is based on whether or not the offender meets one of the requirements for an exemption.

Parole: The release of an inmate to the community by the Parole Board before the end of the inmate's sentence, subject to conditions imposed by the Board and subject to the supervision and control of the Commissioner of Corrections.

Pre-Approved Furlough (PAF): The legal status in which an offender is sentenced to serve a term of imprisonment, but is placed by a court on furlough to participate in such programs administered by the Department that reduce the offender's risk to reoffend.

Probation: The legal status a court may impose on a defendant that suspends all or part of the sentence and places the person in the care and custody of the Commissioner of Corrections, upon such conditions and for such time as it may prescribe, in accordance with law, or until further order of the court.

State of Vermont Restitution Unit: This was created by the State legislature to address the financial hardship caused to crime victims when they must wait for an offender to pay restitution. For any restitution ordered on or after July 1, 2004, the Restitution Unit pays victims their restitution as soon as it has been ordered by the court. The payments are made from the Restitution Fund. The Restitution Unit then collects the outstanding amount from the offender and reimburses the Fund.

Supervised Community Sentence (SCS): A court-imposed sentence of incarceration to be served in a community setting subject to the rules of the Commissioner of Corrections. These offenders are under the jurisdiction of the Parole Board.

Supervision: The authority or oversight exercised by supervising authorities of the Department over an offender for a period of time determined by a court or releasing authority, during which the offender is required to report to, or be monitored by, supervising authorities. This includes any condition or requirement imposed on the offender at the time of the offender's release to the community or during the period of supervision in the community.

Tax Setoff Debt Collection: A process by which the Department may submit claims to the Tax Department for collection of offender debts of \$50 or more.

PROCEDURAL GUIDELINES

This administrative directive outlines the following: determination of offender financial responsibilities, to include the rate of payment and ability to pay; collection practices, to include method and place of payment; any exemptions, if applicable, of an offender's financial responsibility; and guidance on responding to offender non-compliance.

Procedural Guidelines for Supervision Fees

Statute and APA Rule # 08016 *Supervision Fees for Offenders Under Field Supervision by the DOC* require the Department to collect a supervisory fee of up to \$30 per month from offenders under the supervision of the Department and in the community on the following legal statuses: probation, furlough, pre-approved furlough, supervised community sentence, or parole.

1. New Case Set up

- a. The Probation and Parole Officer (PO) will assess supervision fees for the offender at intake using the questions on the *Payment Contract (Attachment 1)*. The

supervision fee for all eligible offenders on probation, furlough, pre-approved furlough, supervised community service, or parole is \$15 per month.

- b. Those exempt from paying the monthly supervision fee to the Department are offenders in the following categories only:

- i. Offenders whose sole source of income is Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Vermont's Aged, Blind, and Disabled Program (AABD), or the Reach Up Program;
- ii. Offenders sentenced to the Community Restitution Program **only**;
- iii. Offenders accepted for supervision in another state, subject to the rules of the Interstate Compact for Adult Offender Supervision;
- iv. Offenders residing in a residential treatment facility for thirty (30) days or more;
- v. Offenders housed in a correctional facility for thirty (30) days or more;

- c. Offenders on Parole supervision for life may request an exemption from supervision fees when they are on "Administrative Supervision" status as ordered by the Parole Board.

- d. Offenders will provide written proof that they are on SSI, SSDI, AABD, or the Reach Up Program. The PO must review the offender's exemption status at least every six (6) months and either continue the exemption or re-instate the supervision fee.

2. Payment Processing of Supervision Fees

- a. The Department will collect supervision fees from offenders via U.S. mail, in person at designated Probation and Parole Offices, or via a centralized collection system.
- b. Offenders must make payments in the form of a certified bank check or money order made payable to the Vermont Department of Corrections.
- c. The administrative staff person responsible for entering payments into the Correction's accounting system will follow Department accounting practices. In cases where offenders owe both court-related fees/fines collected by the Department and supervision fees, offender payments will be applied to supervision fees first, with amounts paid over the amount of fees owed applied toward the court-related fees/fines.
- d. Offenders may pre-pay supervision fees for up to three (3) months in advance.

3. Non-Payment of Supervision Fees

- a. While it is the offender's responsibility to pay supervision fees, it is the responsibility of the PO to encourage, motivate, and monitor offenders to ensure payments are current.
- b. Prior to closing any probation supervision case, the PO will make every possible effort to ensure that the offender has paid all supervision fees in full. An offender on probation will not be violated for failure to pay supervision fees. Probation cases may be discharged from supervision if all other conditions have been met except payment of supervision fees; however, any outstanding debt over \$50 as a result of

unpaid supervision fees will remain in Corrections' accounting system for referral to tax setoff debt collection.

- c. Offenders under the supervision of the Department and in the community on furlough, pre-approved furlough, supervised community sentence, or parole will not be returned to jail for failure to pay supervision fees **only**; however, any outstanding debt as a result of unpaid supervision fees will remain in the Corrections' accounting system for referral to tax setoff debt collection.

Procedural Guidelines for Court Ordered Fines/Fees

Pursuant to statute, the criminal court system of Vermont, as part of sentencing, is required to charge fees and allowed to charge fines to defendants. These fines/fees will be collected by the Department of Corrections as a function of case management duties when ordered through a condition of probation, supervised community sentence, or pre-approved furlough.

1. New Case Set Up

- a. The PO will discuss with the offender the amount of the fines and fees owed and have the offender agree upon a rate of payment, which must be documented on the *Payment Contract*.
- b. If the offender is convicted of a new crime after the initial intake, the PO must complete a new *Payment Contract* with the offender, if new fines/fees are required by the Court.

2. Payment Processing of Court-Ordered Fines/Fees

- a. The Department will collect court-ordered fines/fees from offenders either in person at designated Probation and Parole Offices, via U.S. mail, or via a centralized collections system.
- b. Offenders must make payments in the form of a certified bank check or money order made payable to the Vermont Department of Corrections.
- c. The administrative staff person responsible for entering payments into Corrections' accounting system will follow Department accounting practices. In cases where offenders owe both court-related fees/fines collected by the Department and supervision fees, offender payments will be applied to supervision fees first, with amounts paid over the amount of fees owed applied toward the court-related fees/fines.

3. Non-Payment of Court-Ordered Fines/Fees

- a. While it is the offender's responsibility to pay court-ordered fines/fees, it is the responsibility of the PO to encourage, motivate, and monitor offenders to ensure payments are current.
- b. Offenders on probation may be violated for non-payment of court-mandated fines/fees.
- c. Any outstanding debt over \$50, as a result of court-ordered fines/fees, will remain in the Corrections' accounting system for referral to tax setoff debt collection.

Procedural Guidelines for Restitution

Pursuant to statute, restitution will be considered by the Court in every case in which a victim of a crime has suffered a material loss. In awarding restitution, the Court will make findings with respect to the total amount of the material loss incurred by the victim and the offender's current ability to pay restitution.

1. New Case Set Up

- a. The PO will review with the offender their responsibility regarding court-ordered restitution. The Restitution Unit will collect and disburse all restitution which is ordered by the Court.
- b. Any questions that the offender may have regarding restitution amounts or payment schedule can be referred to the Restitution Unit.

2. Payment Processing of Restitution

- a. The Department will not collect any restitution, but will work collaboratively with the Restitution Unit to assist with the collection.
- b. The Department will provide the Restitution Unit with information about the location and employment status of the offender.
- c. POs will monitor an offender's restitution payments via the Restitution Unit's Web site.

3. Non-Payment of Restitution

- a. An offender may not be charged with a violation for nonpayment of a restitution obligation incurred after July 1, 2004. An offender sentenced before July 1, 2004 with a restitution obligation may be charged with a violation for nonpayment. While it is the offender's responsibility for payment of restitution, it is the responsibility of the PO to encourage, motivate, and monitor offenders to ensure payments are current.
- b. Offenders may be discharged from probation with an outstanding balance on their court-ordered restitution so long as the restitution obligation was ordered after July 1, 2004. The Restitution Unit can file an action to enforce the restitution order in Superior or Small Claims Court.

Procedural Guidelines for Program Fees

Offenders participating in contracted intervention services are required to pay a fee in support of those services. Offender payment to contracted providers is designed to increase their investment in change and add to the therapeutic benefit of the service received. It also helps to reduce the cost to the State. These fees will be collected by the contracted provider, who will account for those payments to the State. The total of those payments will be credited toward the amount owed to the contractor by the State for the service.

1. New Case Set Up

The PO will discuss the rate of payment with the offender and have the offender agree to pay the contracted provider in compliance with Department Directive #368.01, *Waiver of Fees for Contracted Intervention Services*.

2. Payment Processing for Program Fees

The contracted provider will receive the payment and report to the State the status of all payments made under the authority of this administrative directive.

3. Non-Payment of Program Fees

- a. It is the offender's responsibility to pay the program fee as agreed to at admission to the program, unless the fees are waived. It is the responsibility of the PO and contracted provider to encourage, motivate, and monitor offenders to ensure that payments are current.
- b. The offender may be removed from the program for non-payment of the assigned fee. Efforts should be made through case management and intervention strategies to bring the offender into payment compliance prior to program removal.
- c. Failure to comply with payment for intervention services may result in program removal and further Department action based on the change in offender status.

TRAINING

The Field Services Executive or designee will review this directive at the Casework Supervisors' monthly meeting prior to the effective date of implementation for this directive.

QUALITY ASSURANCE

1. The Field Services Executive will monitor Probation and Parole offices monthly for the number of offenders assessed supervision fees and the dollar amount collected. The Field Services Executive will report this data monthly to the District Managers.
2. The Quality Management Unit will review reports developed by program managers and outside vendors, if relevant, and assist in the development of a quality assurance system of the collection process.

ATTACHMENT 1 - SAMPLE

PAYMENT CONTRACT

OFFENDER: _____ DOB: _____ DATE: _____

DOCKET #(S): _____ P&P Office: _____

Unless an exemption below is circled yes, I understand that I am required to pay a **\$15 monthly supervision fee** to the Department of Corrections. This fee is due by the first Monday of each month and will continue as long as I am under the supervision of the Department of Corrections.

I have also been ordered to pay a total of:

Court Fees \$ _____

Fines \$ _____

Restitution \$ _____

Total \$ _____

I agree to make payments of \$15 per month for supervision fees effective _____, and \$_____ per month toward my fine(s) and court fee(s) until paid in full. I also agree to pay any program fees as required.

If I am unable to fulfill this contract, I will notify my probation officer. I understand that failure to pay may result in sanctions.

All offenders are required to pay supervision fees, **except** those: (Circle Yes or No for this offender.)

i. Offenders sentenced to **only** the Community Restitution Program on pre-approved furlough status

Yes No

ii. Offenders accepted for supervision in another state, subject to the rules of the Interstate Compact for Adult Offender Supervision

Yes No

iii. Offenders residing in a residential treatment facility for thirty (30) days or more

Yes No

iv. Offenders housed in a correctional facility for thirty (30) days or more

Yes No

v. Offenders on Parole for life, who have been placed on an “Administrative Supervision” status by the Parole Board.

Yes No

or those who the Department considers unable to pay the fee for the following reasons:

vi. Offenders whose sole source of income is Vermont’s Aged, Blind & Disabled Program (AABD)

Yes (attach documentation) No

vii. Supplemental Security Income (SSI) *or* *Yes (attach documentation) No*

viii. Social Security Disability Insurance (SSDI) *Yes (attach documentation) No*

ix. Reach Up Program *Yes (attach documentation) No*

☐ This offender is exempt from paying monthly supervision fees for the reason(s) circled above.

Probation Officer (Print & Signature)

Offender (Signature)

Date:

Payments (money order or bank check) should be made out to VT Dept. of Corrections. If mailed, mail to:

Cc: Offender file, Business Manager